

RONALD HUGH HUTTON,

Plaintiff,

v.

U.S. DEPARTMENT OF VETERANS
AFFAIRS,

Defendant.

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Cir.1983). Upon careful review of the record, “the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Plaintiff filed an application to proceed *in forma pauperis* on June 6, 2013, asserting claims for injunctive relief against the U.S. Department of Veterans Affairs (“VA”), asserting that defendant failed to remove his designation by the VA as mentally disabled, which status has negatively impacted his ability to secure employment. The magistrate judge granted the *in forma pauperis* application but determined on frivolity review that this court lacks subject matter jurisdiction to consider plaintiff’s claims because jurisdiction over claims challenging benefits determinations by the VA lie with the Board of Veterans’ Appeals and then the U.S. Court of Appeals for the Federal Circuit. (M&R at 4-5). In his objection to the M&R, plaintiff reiterates his claims, asserting that his designation by the VA is not appropriate. (Obj. at 1).

Under 28 U.S.C. § 1915(e)(2), the court may dismiss an action that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. A case is “frivolous” if it lacks an arguable basis in either law or fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989).

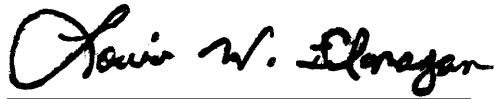
Upon *de novo* review, the court finds that plaintiff’s general objection provides no reason to disturb the cogent analysis contained in the M&R. The Veterans Judicial Review Act of 1988, 38 U.S.C. § 511(a) provides the exclusive process by which veterans may adjudicate claims relating to veterans’ benefits. See Butler v. United States, 702 F.3d 749, 753 (4th Cir. 2012) (stating that “§ 511 precludes jurisdiction over cases where adjudicating veterans’ claims requires the district court to determine whether the VA acted properly in handling a veteran’s request for benefits and also to those decisions that may affect such cases.”) (internal quotations omitted). Accordingly, plaintiff’s claim seeking to have the court review the VA decision regarding his benefits status, and decisions

related thereto, must be dismissed for lack of subject matter jurisdiction.

CONCLUSION

Based on the foregoing, upon de novo review of the record and the recommendation in the M&R, the court ADOPTS the recommendation of the magistrate judge, and plaintiff's action is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2). The clerk is directed to close this case.

SO ORDERED, this the 20th day of May, 2014.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

LOUISE W. FLANAGAN
United States District Judge